

GUIDELINES FOR DEVELOPING ISSUES AND INTERESTS LISTS

The current task for committee members is to develop a list of all of the issues to be addressed during negotiations, NOT to develop positions, or even options for addressing the issues being negotiated. It is an important part of preparation that each of the parties compile the input received from their constituents in the form of issues and interests.

INSTRUCTIONS:

1. Identify the issues to be negotiated.

The **issues** are the problems to be solved in developing the interim final rule. The issues should be expressed simply:

By referring to specific words or phrases in the statutory exception that need to be defined. For example: *Definition of risk.* (Citations)

By problem statement. For example: *To develop a definition of risk that does not conflict with definitions that already exist.* (Citations)

To address problems caused by conflicting definitions of substantial financial risk. (Citations)

Each issue should reference any specific statute, regulation, policy statement, or other document that gives rise to that issue.

2. Identify the interests (needs and concerns) underlying the issue.

The interests are the reasons why an issue is or could be a problem. It should give the reader a sense of why the issue is being raised. This is difficult but essential to the process of reaching consensus.

Each interest statement should be a brief phrase -- long enough to convey clearly the need/concern but not so long and detailed that it analyzes or conveys a position. Interest statements corresponding to the issue statements above might be stated as follows:

Not having to apply different definitions in different contexts.

Reduce cost of obtaining legal advice.

Concern that developing arrangements to avoid antikickback provisions might lead to antitrust violations.

The lists of interests **SHOULD NOT** contain proposals or proposed language for the rule. Hint: if the interest statement is written in sentences and/or as a paragraph, it is probably overstated for this purpose and possibly positional.

Review the interest statements to ensure that they do not sound like position statements (specific solutions or outcomes). If they do, rewrite them so that they are stated as interests (needs or concerns). If you are having trouble doing this, ask the following questions of the statement:

What will having that solution or outcome do for you?

What is that solution or outcome good for?

How is that solution or outcome useful?

How would that solution or outcome affect you?

Interests are not questions. If the process of developing issues and interest statements raises questions, list those questions and submit them as well. Committee members can gather information in response to the questions in between meetings.

Issues and interests should be submitted to the conveners by Monday, July 14, 1997. The entire list of issues and corresponding interests should be no longer than 2 pages. One page is optimal. There will be an opportunity to add issues and interests that arise from discussion at the next meeting.

E-mail (preferred) or fax your document to the conveners.

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